



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
BROOKFIELD PLACE, 200 VESEY STREET, SUITE 400
NEW YORK, NY 10281-1022

MEMO ENDORSED

The August 13, 2020 conference is adjourned to October 15, 2020 at 11:00 a.m.

August 4, 2020

SO ORDERED.

A handwritten signature in black ink that reads 'Paul G. Gardephe'.

Paul G. Gardephe
United States District Judge
August 6, 2020

Via ECF

Hon. Paul G. Gardephe
United States District Judge
Southern District of New York
40 Foley Square, Room 2204
New York, NY 10007

Re: *SEC v. Ciapala*, 20-cv-8 (PGG) (S.D.N.Y.)

Dear Judge Gardephe:

Plaintiff Securities and Exchange Commission ("Commission") requests a 60-day adjournment of the initial pretrial conference currently scheduled as a teleconference on August 13, 2020. The Court previously granted two Commission requests to adjourn the initial pretrial conference (Dkt. No. 13, 15).

As described in the Commission's April 27 and June 15, 2020 letters to Your Honor (Dkt. No. 12, 14), the Commission made separate requests under the Hague Convention to serve the individual defendant in this action, Kenneth Ciapala ("Ciapala"), in the United Kingdom where he was being detained, and to serve the entity defendant, Blacklight SA ("Blacklight"), in Switzerland, but service was not effected on either defendant.

On May 4, the Commission made a request for assistance with service on Blacklight to the appropriate authorities in Switzerland pursuant to Article 22 of the 1973 U.S.-Swiss Confederation Mutual Legal Assistance Treaty (the "Treaty"), but service was not effected under the Treaty. Subsequently, the Commission staff communicated further with Swiss authorities concerning appropriate methods of service on Swiss corporations under Swiss law, and the Commission has been advised that service by mail on Blacklight by Swiss authorities constitutes valid service. The Commission is waiting for proof of such mail service from Swiss authorities and will file that proof of service when it is received. The Commission would then anticipate seeking a default judgment against Blacklight if it does not respond to the Complaint and Summons in a timely fashion.

On or about July 29, Ciapala was extradited from the United Kingdom to face the charges in the criminal action, *United States v. Ciapala*, 19-cr-874 (GBD) (S.D.N.Y.). He was arraigned on July 30, and an initial conference in the criminal action is scheduled for August 18. The Commission has contacted Ciapala's criminal counsel, who has not entered an appearance in this Commission action, to inquire whether Ciapala is willing to waive service of process, and counsel has indicated that Ciapala will waive service.

The Court's Initial Pretrial Conference Order, which scheduled a conference under Federal Rule of Civil Procedure 16, directed the parties to submit a joint letter five business days before the conference, which would be due on August 6. The Commission respectfully requests that the Court adjourn the telephonic conference for 60 days, and again schedule it as a teleconference. Ciapala's criminal counsel has indicated that Ciapala consents to the

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adjournment. If the Court prefers to hold the teleconference on August 13 as scheduled, the Commission can submit its own proposed scheduling letter by August 6.

Respectfully submitted,

/s/ Paul G. Gizzi

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